

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
QUALCOMM Incorporated)	WT Docket No. 05-7
Petition for Declaratory Ruling that OET-69)	
is Acceptable to Demonstrate Compliance)	
with Section 27.60)	
_____)	

COMMENTS OF ACCESS SPECTRUM, LLC

Access Spectrum, LLC (ASL) hereby submits these comments in response to the Petition for Declaratory Ruling submitted by Qualcomm Incorporated (Qualcomm) seeking clarification of Section 27.60 of the Commission's rules as it affects the deployment of 700 MHz wireless services.¹ As further described in these comments, ASL supports FCC actions and policies that promote more intensive utilization of the 700 MHz band during the digital television (DTV) transition. Such actions further the public interest by promoting the provision of advanced wireless services and public safety applications while minimizing regulatory delays.

ASL holds twenty-one A Block and B Block licenses in the upper 700 MHz band and, therefore, is directly affected by the issues raised in the Qualcomm Petition. Specifically, the Qualcomm Petition seeks to establish a clear method by which all affected licensees can demonstrate that FCC approval of short-spaced 700 MHz facilities that do not increase interference to incumbent broadcast facilities serves the

¹ Qualcomm Incorporated, Petition for Declaratory Ruling that OET-69 is Acceptable to Demonstrate Compliance with Section 27.60, WT Docket No. 05-7 (filed Jan. 10, 2005) (Qualcomm Petition).

public interest.² In so doing, Qualcomm asks the Commission to clarify that the procedures contained in the Office of Engineering and Technology Bulletin No. 69 (OET-69) are an acceptable method for demonstrating compliance with the interference protection criteria set forth in Section 27.60.³ In addition, Qualcomm asks the Commission to establish a *de minimis* interference threshold that deems acceptable engineering showings that show that no more than 2 percent of the protected broadcast station's service population would be predicted to receive interference from a short-spaced wireless facility.⁴ Finally, Qualcomm urges the Commission to streamline the processing of OET-69 showings by instituting a shortened public notice period and presuming that these showings are in the public interest.⁵

As noted in the Qualcomm Petition, ASL recently received the first waiver of Section 27.60 to deploy facilities short-spaced to an adjacent channel television station.⁶ ASL justified its waiver request with an engineering showing that demonstrated that any increase in potential interference to TV viewers would be limited to an area within 169 meters of the proposed facility.⁷ In granting ASL's request, the

² Qualcomm Petition at 7, 8.

³ *Id.* at 11-17. OET-69, entitled "Longley-Rice Methodology for Evaluating TV Coverage and Interference" is used to make predictions of radio field strength at specific geographic points based on the elevation profile of terrain between the transmitter and each specific reception point. FCC Rules already reference OET-69 methods for establishing the DTV Table of Allotments and providing procedures for changes to that Table. See Section 73.622 and 73.623 of the FCC's Rules.

⁴ *Id.* at 18-22.

⁵ *Id.* at 22-25.

⁶ See Access Spectrum, LLC Request for Waiver of Section 27.60, DA 04-2527, released August 12, 2004 (ASL Order).

⁷ See Reply Comments of Access Spectrum, LLC, DA 04-1021, May 21, 2004, at 2.

Commission decided that “it is in the public interest to encourage the deployment of alternative land mobile services” and that the “underlying purpose of section 27.60 is to permit 700 MHz operations where it is demonstrated that co-channel or adjacent channel interference to TV/DTV stations will be prevented.”⁸

Since the submission of the Qualcomm Petition, the FCC has acted again to approve the deployment of a 700 MHz wireless facility at a separation to an adjacent channel incumbent broadcast station that is less than that specified under Section 27.60. In granting the waiver request of Aloha Partners, L.P. (Aloha), the Wireless Telecommunications Bureau concluded that allowing Aloha to offer new innovative broadband services to the Tucson, AZ area is in the public interest.⁹ To verify the number of television households that could reasonably be predicted to receive interference from the Aloha facility, the Bureau conducted its independent engineering analysis relying on Longley-Rice methodology and concluded that the area of potential interference is relatively small – ranging from 246 meters to 313 meters from the proposed Aloha transmitter sites.¹⁰ Given these short distances, the Bureau concluded that the number of households that could potentially be affected by operation of any of the base stations addressed in Aloha’s waiver request is very low, and the sum of the number of households affected at all seven of the Aloha sites would be a very small

⁸ ASL Order at ¶14.

⁹ In the matter of Aloha Partners, L.P. Request for Waiver of Section 27.60, FCC File No. 0001777981, rel. Feb. 18, 2005, (Aloha Order) at 5.

¹⁰ *Id.* at 7, 8.

percentage of the households in the Tucson, AZ, market area.¹¹

The FCC was correct in its assessment of the public interest benefits in granting both ASL's and Aloha's waiver requests. While the correct conclusions were ultimately achieved, the process should be better refined to ensure that subsequent requests are handled more expeditiously so that service to the public is not unduly delayed. Thus, ASL supports the view that it serves the public interest to have a process to assess engineering studies and acceptability of results in an efficient manner and, based on our recent experience, believes that the recommendations of Qualcomm are reasonable. The Qualcomm recommendations not only would provide greater certainty for 700 MHz licensees, they do not trivialize the analysis needed to determine the impact to TV viewers. As the Commission recognized in both the ASL and Aloha waiver orders, the underlying purpose of section 27.60 is to permit 700 MHz operations where it is demonstrated that viewers will not lose reception of co-channel or adjacent channel TV/DTV stations. Thus, consideration of future requests must focus on sound engineering analysis and not be subjected to political and regulatory delays.

The nature of the 700 MHz allocation necessitates a flexible review process. First, the shared use of the band by broadcasters and wireless services is temporary. Under Congressional direction, the FCC has already auctioned licenses for operations in both the upper and lower 700 MHz band and must therefore balance its protections to both the incumbents and the spectrum newcomers. Furthermore, as implied in the Qualcomm Petition, the 700 MHz bands are home to a variety of innovative uses

¹¹ *Id.* at 8.

involving a mixture of bandwidths, modulations and system architectures.¹² The TV/DTV interference criteria contained in Section 27.60, however, is based on analysis pertinent to narrowband and wideband public safety land mobile applications and is not fully applicable to all commercial systems. For example, the adjacent channel protection criteria provides no consideration for frequency displacement and assumes that narrowband transmitters operating more than 5 kHz below the channel edge hold the same interference potential as one operating 12.5 kHz from the channel edge. Rather than attempting to account for all of the various deployment permutations in the rules, the Commission should instead foster administrative processes that are expeditious in their review of innovative spectrum uses.

For these reasons, ASL supports Qualcomm's Petition for Declaratory Ruling and urges the Commission to reduce the regulatory barriers to establishing 700 MHz facilities during the DTV transition.

Respectfully Submitted,

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¹² Qualcomm Petition at 14.